

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carl Snodgrass	Team: Team # 2	CCRB Case #: 200515124	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 12/17/2005 12:30 AM	Location of Incident: On the corner of Gold Sreet and York Street	Precinct: 84	18 Mo. SOL 6/17/2007	EO SOL 6/17/2007	
Date/Time CV Reported Mon, 12/19/2005 4:41 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/19/2005 4:41 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Diana Mooney	15983	925769	84 PCT
2. POF Alejandr Vargas	09533	921829	PSA 3
3. POM Karl Geiger	08542	928364	084 PCT
4. SGT John Buttacavoli	01491	918799	084 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Maureen Gill	01039	901605	084 PCT
2. LT Edward Platt	00000	912323	PSA 3

Officer(s)	Allegation	Investigator Recommendation
A.POF Alejandr Vargas	Abuse: PO Alejandr Vargas stopped the car in which § 87(2)(b) was an occupant.	
B.POF Diana Mooney	Abuse: PO Diana Mooney frisked individuals.	
C.SGT John Buttacavoli	Abuse: SGT John Buttacavoli frisked individuals.	
D.POM Karl Geiger	Abuse: PO Karl Geiger frisked individuals.	
E.POF Diana Mooney	Abuse: PO Diana Mooney searched the car in which § 87(2)(b) was an occupant.	
F.POF Alejandr Vargas	Abuse: PO Alejandr Vargas refused to provide her shield number to § 87(2)(b)	

Synopsis

§ 87(2)(b) filed a complaint with the CCRB by phone on December 19, 2005. On December 17, 2005, at approximately 12:30 AM, § 87(2)(b) and his friend, § 87(2)(b) were each driving a car along Gold Street when they were stopped by police officers. § 87(2)(b)'s vehicle was stopped for a traffic infraction by an unmarked RMP (number 482) containing SGT John Buttacavoli, PO Diana Mooney, and PO Karl Geiger from the 84th Precinct Anti-Crime. § 87(2)(b)'s vehicle was stopped directly behind the initial vehicle stop by PO Vargas of PSA3, who happened to be driving by the scene at that time (**Allegation A**). § 87(2)(b) had two passengers, one male and one female, neither of whom have been identified. All three individuals were asked to step out of the vehicle and were subsequently frisked (**Allegations B, C, and D**) by the 84th Precinct officers. § 87(2)(b) alleges that while the individuals in the § 87(2)(b)'s vehicle were outside of the vehicle, PO Mooney searched the vehicle (**Allegation E**). The individual's in § 87(2)(b)'s vehicle were then allowed to leave with a warning. § 87(2)(b) also alleges that, although he requested it multiple times, PO Vargas refused to provide her shield number (**Allegation F**). PO Mooney issued § 87(2)(b) a summons for § 87(2)(b).

§ 87(2)(g)

[REDACTED]

This case was originally assigned to Inv. Grandin Donovan. When Inv. Donovan left the agency, the case was reassigned to Inv. Tiffany Miller. It was again reassigned to Inv. Snodgrass (undersigned) when Inv. Miller left the agency.

Summary of Complaint

§ 87(2)(b) a § 87(2)(b)-old black male, filed a complaint with the CCRB by phone on December 19, 2005 (Encl. 8A-C). § 87(2)(b) provided a brief phone statement on December 21, 2005 (Encl. 9A), was interviewed at the CCRB on January 10, 2006 (Encl. 10A-D), and provided another brief phone statement on July 10, 2007 (Encl. 11A). § 87(2)(g)

On December 17, 2005, at approximately 12:30 AM, § 87(2)(b) was driving along Gold Street behind his friend, § 87(2)(b) who was driving another car. § 87(2)(b)'s vehicle also contained his brother, § 87(2)(b) and his friend, § 87(2)(b). § 87(2)(b)'s vehicle contained two other individuals—a black male and a black female, neither of whom § 87(2)(b) knew. The vehicle § 87(2)(b) was driving was having brake and clutch problems, which, at the corner of Water Street, caused the car to “slip gear” and roll back behind § 87(2)(b)'s vehicle. According to § 87(2)(b), § 87(2)(b) “did something” at that point that made the car’s tires screech and § 87(2)(b) again pulled out in front of § 87(2)(b). An unmarked police RMP began following the two cars at that point and put on its lights. § 87(2)(b) was unable to stop his car and made a right turn through a red light on York Street. The unmarked RMP pulled around § 87(2)(b) and pursued § 87(2)(b)'s vehicle, stopping him shortly after the turn onto York Street.

§ 87(2)(b) stopped at the light and activated his turn signal. When the light was green, § 87(2)(b) turned right onto York Street, where he saw the unmarked RMP stopped behind § 87(2)(b)'s vehicle. At that point, § 87(2)(b) also saw an SUV labeled PSA3 with license plate 5199, driving in the opposite direction on York Street. RMP 5199 slowed to a stop and the driver, a uniformed Hispanic female (later identified

through investigation as PO Alejandr Vargas) motioned for § 87(2)(b) to stop his vehicle, which he did. There was also a uniformed white male “sergeant” (later identified through investigation as LT Edward Platt) in the passenger seat of the PSA3 SUV.

By the time § 87(2)(b) s car was stopped, three plainclothes officers had already exited the unmarked RMP and approached § 87(2)(b) s vehicle. One, a white female, who § 87(2)(b) later learned was PO Diana Mooney of the 84th Precinct, was standing at § 87(2)(b) s driver-side door. A white male officer (later identified through investigation as PO Karl Geiger) was standing next to the front passenger door. Another white male officer (later identified through investigation as SGT John Buttacavoli) was standing at the back of the car. PO Mooney and PO Geiger opened the car doors and requested that § 87(2)(b) the female in the front passenger seat and the male in the rear seat exit. According to § 87(2)(b) PO Mooney frisked § 87(2)(b) near the rear driver-side door, and PO Geiger and SGT Buttacavoli frisked the unknown male and female at the rear of the car.

Meanwhile, PO Vargas exited the SUV, approached § 87(2)(b) and instructed him to turn off his vehicle. LT Platt also exited, and proceeded to stand in front of, the SUV. § 87(2)(b) complied with PO Vargas’s request and removed his keys from the ignition. PO Vargas then suddenly snatched his keys out of his hand and placed them into her pocket. § 87(2)(b) asked why he was being stopped and why his keys were taken out of his hand. PO Vargas refused to provide an explanation.

While § 87(2)(b) and the other two individuals were standing outside of their vehicle, § 87(2)(b) from inside his car, witnessed PO Mooney place her head and upper body into the front of the car and look around and under the seat.

After taking § 87(2)(b) s keys, PO Vargas began walking away from his vehicle. As she was walking away, § 87(2)(b) asked PO Vargas for her badge number. She did not answer, and furthermore turned her body, and covered her name and number with a black elastic “mourning stripe.” § 87(2)(b) stated that PO Vargas’s “right arm was facing [his] vehicle; she turned to the left and covered it up.” § 87(2)(b) believed that he asked her for her name and badge number ten times. § 87(2)(b) also asked PO Vargas for her badge number and told her that it was inappropriate for her to take § 87(2)(b) s keys, but she did not reply. § 87(2)(b) stated that he was sure that PO Vargas heard his multiple requests, and stated that he spoke in a “mid-tone” voice to ensure that PO Vargas could hear him.

PO Vargas returned to a position near RMP 5199 and “just stood there looking.” LT Platt (without moving from the front of the SUV) asked § 87(2)(b) “how much weed” he had smoked that night. § 87(2)(b) told LT Platt that he did not smoke marijuana or do any drugs because he was on parole, and complied with his parole. LT Platt asked § 87(2)(b) for his parole officer’s name, which § 87(2)(b) provided, along with an address and a document stating that he had no curfew and no stipulations.

After they were frisked, § 87(2)(b) and his passengers were not issued any summonses, but were instructed by the plainclothes officers to get back into their vehicle and leave the area, which they did.

PO Mooney, and PO Geiger then approached § 87(2)(b) s vehicle. § 87(2)(b) was still requesting PO Vargas’s badge number. PO Geiger requested § 87(2)(b) s license, which he provided. PO Mooney offered her own name and badge number to § 87(2)(b). § 87(2)(b) told her that he did not “have a problem with her,” and that he would like to have PO Vargas’s information. PO Vargas continued to refuse to give her information, but handed § 87(2)(b) s car keys to PO Mooney. PO Geiger then handed the license to PO Mooney, and PO Mooney returned both items to § 87(2)(b). § 87(2)(b) requested PO Vargas’s name and badge number again. On the third consecutive request, PO Mooney snatched § 87(2)(b) s keys and license back out of his hands and returned to her car for a moment. She wrote something down and then returned to § 87(2)(b) s vehicle. PO Mooney instructed § 87(2)(b) three times to leave the area. § 87(2)(b) persisted in his request for PO Vargas’s information, which he still did not receive. PO Mooney then issued § 87(2)(b) a summons for § 87(2)(b), told him, “Have a nice night.”

All the officers returned to their vehicles and left the scene before § 87(2)(b)

§ 87(2)(b) stated in his initial intake narrative that, at approximately 11:00 AM that same day (December 17, 2005), he went to the 84th Precinct stationhouse, where SGT Maureen Gill refused to process a complaint against the officers. However, he did not repeat this allegation in his official statement.

In a phone conversation with Inv. Tiffany Miller on July 10, 2006, § 87(2)(b) stated that the summons he received was “not on file,” and he therefore did not appear in court to answer it.

Results of Investigation

§ 87(2)(b) (victim)

After several attempts to contact § 87(2)(b) Inv. Tiffany Miller received a message from § 87(2)(b) on July 20, 2006, in which he stated that he had no knowledge of the incident in question.

(No contact information was found for § 87(2)(b) or § 87(2)(b) and the other victims remain unidentified.)

PO Diana Mooney (Subject Officer)

PO Diana Mooney was interviewed at the CCRB on October 10, 2006 (Encl. 13A-C). PO Mooney stated that on December 17, 2005, she was assigned to Precinct Anti-Crime and worked in plainclothes from 5:30 PM (December 16) until 2:05 AM (December 17). She was working with PO Karl Geiger and SGT John Buttacavoli. She and her partners were assigned to unmarked RMP number 482. She was the driver.

PO Mooney stated that at approximately 12:15 AM on December 17, 2005, she and her partners were driving on Gold Street in Brooklyn when they observed two parked vehicles screech their wheels and pull out of their parking spots without signaling. The vehicles drove off as though “trying to race each other up the street.” The officers put on their lights and sirens and pulled over the front-most vehicle as it turned right onto York Street. PO Mooney stated that it was her decision to stop the vehicle, and that the stop was made because the vehicles were driving “recklessly” and failed to signal as they exited their parking spots.

PO Mooney and her partners got out of the RMP and approached the individuals in the first car (PO Mooney stated that the second car had gone off somewhere out of sight at that point). PO Mooney approached the driver-side, SGT Buttacavoli approached the passenger-side, and PO Geiger approached the rear driver-side. There were three individuals in the vehicle, two males and one female. One of the males was driving. Neither of the males in the car had identification and the female’s registration did not match her identification, so the officers asked all the individuals to exit the vehicle. PO Mooney proceeded to frisk the female by patting down her sides. PO Mooney believed that the other officers frisked the two males, but could not recall specifically who frisked whom. PO Mooney stated that the reason for the frisks was that the individuals did not have proper identification, and that, because it was dark and late at night, the frisking was a safety precaution. The female told the officers that the car belonged to her. The officers ran her information and verified that it was her car. The individuals indicated that there was some kind of problem with the vehicle’s brakes. The female stated that the reason the male was driving was that she “wanted him to test the brakes.”

The officers gave the individuals a warning and allowed them to leave the scene. PO Mooney stated the reason the individuals in the first car were not issued summonses was that “they were truthful” with the officers. (PO Mooney ran the names and dates of birth provided by all three individuals and all three appeared to be telling the truth.) No Stop and Frisk Report (UF-250) was filled out. When asked why no UF 250s were filled out, PO Mooney stated that she was “not sure.”

At some point during the stop of the first vehicle, the second car drove up behind the officers’ RMP and “screeched” to a stop. As the second car approached the scene, a PSA vehicle coming in the opposite direction along York Street stopped and its officers—a white male lieutenant and a hispanic female officer (PO Mooney could not recall their names)—assisted with the stop. The PSA officers exited their RMP and approached the second vehicle.

After she and her partners let the first car leave the scene, PO Mooney approached the second car. The PSA officers were standing near the vehicle, talking to the driver, § 87(2)(b). There was also a male passenger in the second vehicle. Neither individual exited the vehicle during the stop. PO Mooney approached § 87(2)(b) and requested his license, which he produced.

PO Mooney did not observe or hear any of the interactions between the PSA officers and the individuals in the second vehicle prior to approaching that vehicle because she had been “concentrating on the initial car stop.”

PO Mooney issued a summons to § 87(2)(b) for § 87(2)(b). PO Mooney stated that it was her decision to issue the summons.

After the summons was issued, both § 87(2)(b) and the passenger of his vehicle asked all the officers for their names and shield numbers. PO Mooney provided her information and told the individuals that “it was also on the summons.” She recalled that the other officers also provided their information. PO Mooney did not observe any officer refuse to give his or her name and badge number. PO Mooney stated that she did not witness the hispanic female officer from the PSA unit attempting to conceal her badge from § 87(2)(b) or any other individual at any point.

PO Mooney did not recall any officer taking the keys from the driver of either car. She stated that she took § 87(2)(b)'s driver's license when she issued him a summons and returned it to him before letting him leave, but did not return his keys at that point. PO Mooney stated that she did not search either vehicle, nor did she look inside either vehicle, nor did she stick her head or upper-body into the window of either vehicle, nor did she search the floor under the seats of either vehicle. PO Mooney also stated that she did not observe any of her fellow officers search either vehicle in any manner listed above. PO Mooney did not recall the PSA lieutenant or any other officer asking any individual anything to the effect of “How much weed have you smoked tonight?” PO Mooney did not recall any officer wearing a black mourning stripe during the incident. PO Mooney could not recall if she and her partners left the scene before or after § 87(2)(b)'s vehicle.

SGT John Buttacavoli (Subject Officer)

SGT John Buttacavoli (who has since been promoted to lieutenant), of the 84th Precinct, was interviewed at the CCRB on August 14, 2006 (Encl. 15A-B). § 87(2)(g)

SGT Buttacavoli reiterated PO Mooney's statement that both vehicles “screeched” their tires from a parked position and speed off as though “racing.” However, he did not mention that either vehicle had failed to use a turn signal.

SGT Buttacavoli could not recall how the stop was performed, stating, “normally, we just pull behind a car and flip the lights on.” He also could not recall which officer's decision it was to stop the cars.

SGT Buttacavoli could not recall at what point the PSA3 unit arrived at the scene. SGT Buttacavoli stated that he only remembered “looking up and seeing them there” at one point but could not recall exactly when that happened, adding that the PSA3 unit had not been called to the scene. SGT Buttacavoli could not recall how the PSA3 unit assisted, stating that he did not believe “they did anything other than park nearby.”

SGT Buttacavoli stated that he could not recall if the driver of either car was asked to present identification at any point. He stated that he could not recall whether or not any individual requested the names and shield numbers of any of the officers during the incident. He also stated that he did not recall if the occupants of either stopped car were asked to exit their vehicle, noting that he has performed “a lot of” car stops and could not recall the events of this particular stop very well. He further stated that he did not recall if either vehicle was searched or any individual was frisked at any point during the incident. He added, “Normally, we don't search vehicles unless something's going on. And here, we have a summons,

so I don't think that we would have gone on and searched the car. That's not our procedure and that's not what we normally do."

PO Karl Geiger (Subject Officer)

PO Karl Geiger was interviewed at the CCRB on August 11, 2006 (Encl. 17A-B). § 87(2)(g)

PO Geiger stated that, while driving along Gold Street he and his partners observed a vehicle (not two) on Gold Street between Front Street and Water Street spin its tires, causing "smoke [to] come out." Like SGT Buttacavoli, PO Geiger did not mention the vehicle's failure to use its turn signal.

PO Geiger stated that while the officers were exiting their car, another civilian vehicle drove up and stopped behind "and to the side" of the officer's unmarked RMP, but he could not determine whether this second vehicle was connected with the first in any way. He stated that, while his partners approached the first stopped vehicle (he could not recall which officer approached which side), he stayed back, positioned between the first stopped vehicle and the RMP, "to keep an eye" on the scene because both vehicles contained "numerous passengers." PO Geiger stated that, to the best of his recollection, the second vehicle stopped on its own and was not instructed to stop by any officer.

PO Geiger stated that the housing unit RMP entered the scene at that point. Although he could not recall how many officers were in the housing unit RMP, PO Geiger stated that they exited their RMP and stood in "the general area" of the two stopped cars as a safety precaution and to provide assistance as needed.

PO Geiger stated that he then approached the first stopped vehicle and observed the passengers beginning to exit it, but did not know whether they were instructed to do so. He stated that he frisked a male individual from the first vehicle, which he speculated was done for "safety reasons," but stated that he could not recall exactly why the frisk was performed. He could not recall whether or not he was instructed to perform the frisk. To his knowledge, he was the only officer to perform a frisk during the incident. He further stated that he could not recall whether any Stop and Frisk Reports were filed.

He could not recall if identification was requested of any of the individuals inside the vehicles. He also stated that he did not recall anyone requesting his name and shield number. He also did not recall anyone asking PO Mooney to provide her name and shield number. He stated that he did not observe PO Mooney issue the summons, but was aware that it was issued.

LT Edward Platt (Subject Officer)

LT Edward Platt was interviewed at the CCRB on August 8, 2006 (Encl. 19A-B). LT Platt stated that on December 17, 2005, he worked in uniform as the Platoon Commander for PSA3 from 11:00 PM (December 16) to 7:35 AM (December 17). He was working with PO Alejandr Vargas. He and his partner were assigned to a marked RMP number 5199 (an SUV). PO Vargas was the driver.

LT Platt stated that at approximately 12:30 AM, he and PO Vargas were driving on York Street when he observed the unmarked RMP stopping the first vehicle on the corner of York Street and Gold Street. By the time LT Platt first observed the incident, the vehicles were already stopped. He stated that the unmarked RMP contained a female sergeant and at least two other officers, all from the 84th Precinct Anti-Crime Unit, but that he did not know any of the officers.

LT Platt told PO Vargas to pull up and assist the 84th Precinct officers. LT Platt stated that there was nothing unusual about the situation that drew his attention to it and that this kind of assistance is standard unless the other officers indicate that they do not need any help. PO Vargas stopped the car, and LT Platt and PO Vargas both exited the vehicle. LT Platt asked the sergeant if everything was okay, and she said that it was. LT Platt stated that the sergeant never informed him why she had stopped the vehicle (and he further stated that he never asked about it).

LT Platt stated that he did not recall observing any officers opening the door of the first stopped vehicle and asking the individuals inside to exit the vehicle, nor could he recall any of the occupants of the first stopped

vehicle exit at any point. He further stated that he did not recall anyone being frisked or the vehicle being searched at any point, adding that “they probably looked in the vehicle, but I don’t remember that.”

LT Platt stated that approximately 5 minutes after LT Platt arrived at the scene, a second vehicle drove up behind the unmarked RMP and was flagged to stop by one of the 84th Precinct officers (LT Platt could not recall which one). LT Platt did not observe this second vehicle perform any traffic violation, but assumed that the Anti-Crime Unit had good reason to stop it. LT Platt stated that he was primarily focused on the circumstances involving the first stopped vehicle. He stated that he did not ever interact with the driver of the second car and also could not recall ever seeing PO Vargas interact with him.

The driver of the second vehicle yelled, “What am I being stopped for?” The 84th Precinct sergeant told him that she would “be with him shortly.” The sergeant then approached the vehicle.

LT Platt stated that he did not recall any officer removing the keys from either driver’s hands. He stated that he did not recall anyone asking PO Vargas for her name or shield number at any point. He further stated that he did not recall PO Vargas ever concealing her shield. He further stated he did not recall either himself or any other officer asking the individuals anything to the effect of “have you been smoking weed?”

LT Platt waited on the scene until summonses were issued to both stopped vehicles by the 84th Precinct unit. He did not know what the charges on the summonses were, nor did he know how many summonses were served.

PO Alejandr Vargas (Subject Officer)

PO Alejandr Vargas was interviewed on August 11, 2006 (Encl. 21A-B). PO Vargas’s statement was consistent with LT Platt’s, with the following exceptions.

PO Vargas stated that by the time she and LT Platt arrived at the scene, the 84th Precinct officers were outside of their car talking with “a couple of” the individuals from the stopped car, who were also standing outside of their vehicle at that point. PO Vargas was not able to hear the conversation between the officers and the individuals.

PO Vargas stated that both she and LT Platt exited their RMP and proceeded to stand in the middle of the street, near the stopped car. PO Vargas stated that, at that point, she observed a car driving “really fast” along Gold Street. (PO Vargas could not estimate how fast the car was moving, but stated that it appeared at the scene in “a split second.”) PO Vargas believed that the car contained two individuals (a driver and passenger, both black males). This car came to a stop because the incident involving the first stop was blocking the intersection. One of the 84th Precinct officers (PO Vargas could not recall which officer) verbally instructed the driver of the second car to “wait,” and the car stopped behind the unmarked 84th Precinct RMP.

PO Vargas approached the driver of the second car, who still had the engine running, and asked him for the keys. The driver asked why she wanted the keys. PO Vargas stated that she was “almost run over” by a car at a previous car stop and told the driver that his keys would be returned to him when the stop was completed. PO Vargas stated that she did not ask the driver for identification. The driver handed PO Vargas his keys and asked her, “Who are you?” She responded, “Officer Vargas.” She then proceeded to walk away from the car and return to where she had originally been standing, near the first stopped car.

PO Vargas stated that, at the end of the incident, a female officer from the Anti-Crime Unit went to the driver of the second car to return the driver’s keys to him, and, “for some reason,” he did not want to take them back.

PO Vargas stated that she could not recall either of the vehicles at the scene being searched. She further stated that she could not recall seeing any of the individuals at the incident being frisked by any officer. Although she stated that she provided her name when asked by the driver of the second vehicle, she stated that she did not recall this individual asking for the officers’ shield numbers.

Like LT Platt, PO Vargas stated that she could not determine whether the two stopped cars were connected in any way.

SGT Maureen Gill

SGT Maureen Gill was interviewed at the CCRB on August 10, 2006 (Encl. 23A-B). SGT Gill stated that on December 17, 2005, she worked from 12:00 PM to 9:00 PM. She was assigned to a patrol post. At the time of the incident, she was working alone. She was in uniform and assigned to a marked RMP on her tour. However, she was at the desk of the 84th Precinct Stationhouse at the time of the incident.

SGT Gill stated that she vaguely recalled the incident. She was sitting at the desk at the 84th Precinct stationhouse when a black male entered the facility and told her that he had been stopped in a vehicle “the night before or two nights before” (SGT Gill could not recall exactly when he had specified) on York Street and Gold Street. According to SGT Gill’s recollection of this individual’s account of what had happened, there were two carloads of people transporting music equipment. One car “peeled off” and went through a red light. This car was pulled over and issued a summons for going through the light. The individual stated that the reason that he went through the light was that the car did not have brakes. SGT Gill told the individual, “I would have pulled you over also. I would have thought two people peeling out and going through a light could be somebody who had just shot somebody, who could have just robbed somebody. We could have had tons of problems there. That would have made me stop you, myself. As far as driving without brakes, you’re not in the right. You could have a kid run over... You have to be able to stop.” SGT Gill stated that in the situation the individual had described to her, he had committed a “ton of infractions, which he didn’t even deny.”

SGT Gill stated that the individual did not indicate that he wished to make a complaint. He asked a series of questions and SGT Gill told him to go to traffic court and that “if he wants to plead not guilty and challenge it, he can, but he freely admitted to [her] about going through the light.”

After engaging in a “very nice conversation” with SGT Gill, the individual got up, thanked SGT Gill for her time, wished her a “Merry Christmas,” and left.

Police Documents

A request for a UF-250 (Stop and Frisk Report) filed for the incident came back with negative results.

Summons Disposition

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Complainant/Officer CCRB History

This is § 87(2)(b)'s first complaint with the CCRB (Encl. 6A). § 87(2)(b) and § 87(2)(b) have also never filed any other complaints. None of the subject officers—PO Mooney, SGT Buttacavoli, PO Geiger, PO Vargas (Encl. 2A-5A, respectively)—have any prior substantiated allegations.

Conclusions and Recommendations

Undisputed Facts

The 84th Precinct Anti-Crime Unit stopped § 87(2)(b)'s vehicle on the corner of York Street and Gold Street for a traffic infraction, which was PO Mooney’s decision. The three individuals from this car were asked to exit the vehicle. PO Mooney, PO Geiger, and SGT Buttacavoli frisked individuals from this car. PO Vargas took the keys from § 87(2)(b) who remained in his car during the incident. The individuals in § 87(2)(b)'s vehicle were allowed to leave the scene without being issued a summons. PO Mooney provided her name and shield number to § 87(2)(b) and § 87(2)(b) upon request. PO Mooney issued § 87(2)(b) a summons for § 87(2)(b).

Facts in Dispute

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Officer Identification

§ 87(2)(b) [REDACTED] identified PO Mooney by the name and shield number she provided at the time of the incident and by the summons issued during the incident. PO Mooney furthermore acknowledged that she was involved in the stop during her CCRB interview. § 87(2)(g) [REDACTED]
[REDACTED] SGT Buttacavoli and PO Geiger were identified from the 84th Precinct roll call (Encl. 25A-H) as being assigned to Anti-Crime with PO Mooney, and both officers acknowledged their involvement in the incident during their respective CCRB interviews. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED] (PO Geiger furthermore acknowledged that he performed a frisk.) LT Platt and PO Vargas were identified from the PSA3 roll call (Encl. 26A-E) as being the unit assigned to RMP 5199, which number § 87(2)(b) [REDACTED] provided at the time of this interview. Both LT Platt and PO Vargas also acknowledged their involvement in the incident. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Note Regarding the Pleading of Allegations

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]

§ 87(2)(g) [REDACTED]
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§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

Credibility

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) mentioned both in the initial narrative and his CCRB interview (but did not reiterate verbatim) the conversation with LT Platt that began when LT Platt asked him “how much weed” he had smoked. Also, § 87(2)(b) s description of the manner in which PO Vargas both refused to provide and covered up her name and badge, as well as § 87(2)(b) s mention of details such as the “black mourning stripe” she was wearing were consistent from statement to statement.

§ 87(2)(g)

§ 87(2)(g)

Of those identified, neither § 87(2)(b) s brother, § 87(2)(b) nor § 87(2)(b) s friend, § 87(2)(b) were never contacted because contact information was never provided or discovered for them, and § 87(2)(b) stated (in a message left on July 20, 2006) that he had no recollection of the incident.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

LT Platt § 87(2)(g) stated that one of the 84th Precinct officers flagged down § 87(2)(b)'s vehicle, which statement none of the 84th Precinct officers corroborated. However, PO Vargas also claimed that one of the 84th Precinct officers verbally commanded § 87(2)(b) to "wait." § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A) Abuse of Authority: PO Alejandr Vargas stopped the car in which § 87(2)(b) was an occupant.

PO Vargas acknowledged that she approached § 87(2)(b)'s vehicle and requested that he hand her his keys. Her stated reason was that she wanted to ensure the safety of herself and her fellow officers during the vehicle stop. Her stated reason for approaching the vehicle was that the driver had been instructed to "wait" by one of the 84th Precinct officers. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B) Abuse of Authority: PO Diana Mooney frisked individuals.

Allegation C) Abuse of Authority: SGT John Buttacavoli frisked individuals.

Allegation D) Abuse of Authority: PO Karl Geiger frisked individuals.

According to Kamins *Search and Seizure*, "if the driver fails to produce the required license, registration or insurance card, ... the officer would have a reasonable suspicion to believe that a crime has been committed" (Encl. 1F). And, although Kamins states that an officer "is not permitted to *frisk* the driver or other occupants of a car unless [the officer] has a reasonable basis for suspecting that the individual is armed and may be dangerous" (Encl. 1G), it also states that "if the police have a reasonable basis to fear for their safety, they may take appropriate and reasonable steps to insure that a driver is unarmed before they question him" (Encl. 1H). In this case, the facts are as follows. The vehicle stop was performed late at night. The officers observed what they believed to be reckless and erratic driving. The driver did not have identification. The female in the vehicle, who stated that the vehicle was hers, had a driver's license that did not match the registration. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E) Abuse of Authority: PO Diana Mooney searched the car in which § 87(2)(b) was an occupant.

None of the officers' statements supported § 87(2)(b)'s allegation that PO Mooney searched § 87(2)(b)'s vehicle while § 87(2)(b) and the other occupants were not inside. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F) Abuse of Authority: PO Alejandr Vargas refused to provide her shield number to

§ 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: